

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 2, 4, 7 and 9 have been cancelled, without prejudice and disclaimer. Claims 1, 3, 5, 6, 8 and 10 have been amended hereby. No new matter has been entered. Therefore, claims 1, 3, 5, 6, 8 and 10 are pending in the instant application, of which claims 1, 3, 5, 6, 8 and 10 are independent.

Noted - IDS Considered

The indication (see Examiner-initialed forms mailed with Office Action dated April 7, 2009) that the Information Disclosure Statement (IDS) as filed on March 25, 2009 and references listed therein have been considered is noted with appreciation.

Claim Rejections Under 35 U.S.C. §112

Claims 1-10 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The office action stated that regarding claim 1, it is noted:

Regarding claim 1, the first limitation element includes four codes for the judgment, while the second limitation element only includes three codes (i.e. missing “gain code”). It is unclear or confused that why needs a gain code for the judgment if it is on use for embedding, so that the claim indefinite. Regarding claims 2-10, the rejection is based on the same reason described for claim 1.

However, it is respectfully submitted that codes for judging and codes for embedding are able to be defined independently. It is not necessary to conform the codes for judging with the codes for embedding. Accordingly, the rejection is improper and withdrawal of the rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. §103

Claims 1, 3, 5-6, 8 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over GOPALAN et al. (US 2003/0176934 A1) hereinafter referenced as GOPALAN in view of WU et al. (“Fragile speech watermarking based on exponential scale quantization for temper detection”, Acoustics, Speech, and Signal Processing, 2002, Proceeding IEEE international conference) hereinafter referenced as WU. Claims 2, 4, 7 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over GOPALAN in view of WU, and further in view of CHIU et al. (US 2004/0220803 A1) .

INDEPENDENT CLAIMS 1 AND 5

As an example, independent claim 1 recites (among other things) a feature of "the embedding judgment unit performs the judgment processing based on the past speech code after completion of the embedding processing performed by the embedding unit". As will be explained below, at least the feature of claim 1 is a distinction over each of GOPALAN and WU, and thus over their combination.

In the cited portion of GOPALAN (paragraphs 0010) describes:

Briefly stated, the present invention provides a method and apparatus for embedding binary data in audio signals. The magnitude of the power spectrum at the perceptual holes of each frame of a host speech utterance, may be altered so as to embed digital data. The phase spectrum at perceptually masked special points of each frame of a host speech utterance, may also be altered so as to embed digital data.

Hence, GOPALAN does not teach or suggest that the embedding judgment unit performs the judgment processing to judge whether or not a speech code is capable of embedding data based on a liner spectrum pair (LSP) code, a pitch lag code, a fixed

code and a gain code included in the past speech code after completion of the embedding processing performed by the embedding unit as recited in claim 1. That is, GOPALAN does not teach or suggest the past speech data after completion of the embedding processing performed by the embedding unit is used to the judging processing to judge whether or not a speech data is capable of embedding data. Hence, the noted features of claim 1 is a distinction over GOPALAN.

WU also fails to teach or suggest the noted feature of claim 1. Hence, the noted feature of claim 1 is a distinction over WU.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 1 noted above, at least one claimed element is not present in the asserted combination of references. Claim 5 has the same feature of claim 1. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 1 and 5. Claim 2 has been cancelled so the rejection of claim 1 is moot.

INDEPENDENT CLAIMS 3 AND 5

As an example, an independent claim 3 recites (among other things) a feature of "the past speech code is identical to a past speech code which was used for judging whether the speech code is capable of embedding data". As will be explained below, at least the feature of claim 3 is a distinction over each of GOPALAN and WU, and thus over their combination.

The cited portions of GOPALAN fail to teach or suggest that "an extraction judgment unit to judge whether or not data is being embedded in a speech code based

on a past speech code being identical to a past speech code which was used for judging whether the speech code is capable of embedding data”. Hence, the noted feature of claim 3 is a distinction over GOPALAN.

WU also fails to teach or suggest the noted feature of claim 3. Hence, the noted feature of claim 3 is a distinction over WU.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 3 noted above, at least one claimed element is not present in the asserted combination of references. Claim 5 has the same feature of claim 3. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 3 and 5. Claim 4 has been canceled so the rejection of claim 4 is moot.

INDEPENDENT CLAIMS 6 AND 10

As an example, independent claim 6 recites (among other things) a feature of "the judging based on the past speech code after completion of the embedding”. As will be explained below, at least the feature of claim 6 is a distinction over each of GOPALAN and WU, and thus over their combination.

In the cited portion of GOPALAN (paragraphs 0010) merely describes:

Briefly stated, the present invention provides a method and apparatus for embedding binary data in audio signals. The magnitude of the power spectrum at the perceptual holes of each frame of a host speech utterance, may be altered so as to embed digital data. The phase spectrum at perceptually masked special points of each frame of a host speech utterance, may also be altered so as to embed digital data.

Hence, GOPALAN does not teach or suggest that the judging based on the past

speech code after completion of the embedding as recited in claim 6. Hence, the noted feature of claim 6 is a distinction over GOPALAN.

WU also fails to teach or suggest the noted feature of claim 6. Hence, the noted feature of claim 6 is a distinction over WU.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 6 noted above, at least one claimed element is not present in the asserted combination of references. Claim 10 has the same feature of claim 6. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 6 and 10. Claim 7 has been cancelled so the rejection of claim 7 is moot.

INDEPENDENT CLAIMS 8 AND 10

As an example, an independent claim 8 recites (among other things) a feature of "the past speech code is identical to a past speech code which was used for judging whether the speech code is capable of embedding data". As will be explained below, at least these features of claim 8 is a distinction over each of GOPALAN and WU, and thus over their combination.

The cited portions of GOPALAN fails to teach or suggest that "judging whether or not data is being embedded in a speech code based on a past speech code being identical to a past speech code which was used for judging whether the speech code is capable of embedding data". Hence, the noted feature of claim 8 is a distinction over GOPALAN.

WU also fails to teach or suggest the noted feature of claim 8. Hence, the noted

feature of claim 8 is a distinction over WU.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 8 noted above, at least one claimed element is not present in the asserted combination of references. Claim 10 has the same feature of claim 8. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 8 and 10. Claim 9 has been canceled so the rejection of claim 9 is moot.

In view of the foregoing discussion, the rejection of claims 1-10 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to Deposit Account No. 50-1290.

Respectfully submitted,

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